

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

MICHAEL EDIALE AIHE,

Criminal No. 01-162 (2) (JRT/FLN)
Civil No. 05-1529 (JRT)

Petitioner,

v.

ORDER

UNITED STATES OF AMERICA,

Respondent.

Michael Ediale Aihe, 2769 Amaya Terrace, Lake Mary, FL 32746, *pro se*.

Michelle E. Jones, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, 600 United States Courthouse, 300 South Fourth Street, Minneapolis, MN, 55415, for respondent.

This matter is before the Court on a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 brought by petitioner Michael Ediale Aihe. Petitioner was convicted of mail and wire fraud, conspiracy to commit mail and wire fraud, and money laundering, and was ordered to pay \$335,990 in restitution. Petitioner's only requested relief under his § 2255 motion is that the Court vacate the order of restitution. Because this statute affords relief only to prisoners claiming a right to be released from custody, the Court lacks jurisdiction over petitioner's motion. *United States v. Bernard*, 351 F.3d 360, 361 (8th Cir. 2003). Accordingly, petitioner's motion for relief pursuant to § 2255 cannot be granted and the Court therefore dismisses the petition. **IT IS HEREBY ORDERED** that Petitioner's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 [Docket No. 251] is **DISMISSED**.

DATED: September 29, 2005
at Minneapolis, Minnesota.

s/ John R. Tunheim
JOHN R. TUNHEIM
United States District Judge